

# Exhibit 2

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

<b>UNITED STATES OF AMERICA</b>	:	
	:	
<b>Plaintiff,</b>	:	Criminal Action
	:	No. 20-cr-00178-TSE
<b>v.</b>	:	
	:	
<b>MARCUS FOSTER,</b>	:	November 23, 2021
	:	11:00 a.m.
	:	
	:	
<b>Defendant.</b>	:	
	:	
.....	:	

**TRANSCRIPT OF CHANGE OF PLEA PROCEEDINGS  
BEFORE THE HONORABLE LIAM O'GRADY,  
UNITED STATES DISTRICT COURT JUDGE**

**APPEARANCES:**

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by computer-aided transcription.

MORNING SESSION, NOVEMBER 23, 2021

(11:04 a.m.)

THE COURTROOM CLERK: The Court calls *United States of America versus Marcus Foster*, Case Number 1:20-cr-178. May I have appearances, please, first for the government.

MS. GESCH: Good morning, Your Honor. Heidi Gesch and Carina Cuellar for the United States.

THE COURT: Good morning.

MS. CUELLAR: Good morning, Your Honor.

MR. CONTE: Good morning, Your Honor. May it please the Court, Joseph Conte on behalf of Mr. Foster.

THE COURT: All right. Good morning, Mr. Conte. Good morning, Mr. Foster.

THE DEFENDANT: Good morning.

THE COURT: All right. Are we ready to proceed?

MR. CONTE: Yes, Your Honor.

THE COURT: All right. Then let's have Mr. Foster come to the podium and be sworn.

(MARCUS FOSTER, DEFENDANT IN THE CASE, SWORN)

THE COURT: Good morning, Mr. Foster. My name is Liam O'Grady, and I'm one of the other district judges here in the building. I'm taking your plea today on behalf of Judge Ellis, and Judge Ellis will be the sentencing judge in the case. I just wanted to let you know why there's a different judge up here today.

1           How old are you, sir?

2           THE DEFENDANT: 32.

3           THE COURT: All right. How far did you go in school?

4           THE DEFENDANT: Some college.

5           THE COURT: So you read and write the English language  
6 without difficulty?

7           THE DEFENDANT: Yes.

8           THE COURT: All right. And have you gone over the plea  
9 agreement and the Statement of Facts and the superseding  
10 indictment yourself, sir?

11          THE DEFENDANT: Yes.

12          THE COURT: And also gone over it with Mr. Conte?

13          THE DEFENDANT: Yes.

14          THE COURT: And has he answered any questions you had  
15 about the information in each of those documents?

16          THE DEFENDANT: Yes, he has.

17          THE COURT: Do you need anymore time to speak with him  
18 this morning before we proceed?

19          THE DEFENDANT: No, I don't.

20          THE COURT: All right. Has anybody made any threats or  
21 promises to get you to plead guilty to Count 1 that aren't in the  
22 plea agreement?

23          THE DEFENDANT: No.

24          THE COURT: And are you satisfied with Mr. Conte's  
25 services on your behalf?

1 THE DEFENDANT: Yes, I am.

2 THE COURT: All right. Are you under -- I know that  
3 you're incarcerated. Are you taking any medication which would  
4 make it difficult for you to understand the questions I'm asking  
5 you here today?

6 THE DEFENDANT: No, I'm not.

7 THE COURT: Okay. Let's look at Count 1. Do you  
8 understand that in Count 1 that you're charged with, between 2018  
9 through July of 2020, in the Eastern District of Virginia and  
10 elsewhere, with conspiring with your wife, Caprice Foster, to  
11 commit crimes against the United States, including wire fraud;  
12 that is, you and Caprice and others, known and unknown, to the  
13 Grand Jury knowingly and intentionally devised and intended to  
14 devise a scheme, an artifice to defraud and to obtain money and  
15 property by means of materially false and fraudulent pretenses,  
16 representations and causes, and transmitted or caused to be  
17 transmitted by means of Interstate Commerce writings, signs,  
18 signals, pictures, and sounds for the purpose of executing such  
19 scheme and artifice in violation of Title 18, Section 1343, which  
20 is the wire fraud section, and also bank fraud; that you and  
21 Caprice knowingly and intentionally conspired with each other to  
22 execute a scheme and artifice to defraud one or more financial  
23 institutions, including, but not limited to Chime, the Bankcorp  
24 Bank, Stride Bank, JP Morgan, Chase, SunTrust, CitiBank, Alliant,  
25 Ally Bank, Wells Fargo, First National Bank, Apple Federal Credit

1 Union, Axos Bank, USAA, Navy Federal Credit Union, and  
2 Educational Systems Federal Credit Union to obtain moneys, funds,  
3 credit, and other property under the custody and control of those  
4 financial institutions by means of materially false and  
5 fraudulent pretenses, representations, and promises in violation  
6 of Title 18, United States Code Section 1344, and those crimes  
7 are in violation of Title 18, Section 1349, the conspiracy  
8 section. Do you understand that's what you're charged with in  
9 Count 1?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. And did you go over the elements  
12 of that offense that the government must prove beyond a  
13 reasonable doubt with Mr. Conte about those offenses?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. Before I can accept your plea, I  
16 need to make sure that you understand your rights here in court.  
17 Do you understand you have a right to plead not guilty and  
18 require the government to prove its case against you beyond a  
19 reasonable doubt?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: Do you understand you're entitled to a jury  
22 trial, if you wish it, where 12 members of the community would  
23 hear evidence, and only if they unanimously found you guilty  
24 would you be convicted of this charge? Do you understand that?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: Do you understand that if there was a trial,  
2 the government would be required to put witnesses on the stand;  
3 they'd be under oath; they'd be subject to cross-examination by  
4 Mr. Conte. You'd have a right to contest the evidence that the  
5 government sought to admit against you. You'd have a right to  
6 testify in a trial if you wished. You have an absolute right not  
7 to testify if you did not wish to because you have an absolute  
8 right to remain silent, and no inference of your guilt could be  
9 made because you didn't testify.

10 You have a right to use the power of the Court to compel  
11 witnesses to attend and testify on your behalf, and you have a  
12 right to counsel at every stage of the proceedings against you.  
13 Do you understand those rights?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: And you discussed with Mr. Conte your right to  
16 plead not guilty and go to trial and decided to waive that right  
17 and plead guilty instead here today?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that the maximum penalty for  
20 Count 1, the conspiracy to commit wire and bank fraud in  
21 violation of Title 18, Section 1349, is a maximum term of 20  
22 years of imprisonment, a fine of the greater of \$250,000 or twice  
23 the gross gain or loss, full restitution, forfeiture of assets, a  
24 hundred dollar special assessment, and three years of supervised  
25 release?



1 THE DEFENDANT: Yes, I do.

2 THE COURT: All right. Do you understand that supervised  
3 release is a period of probation which begins after you have  
4 served any term of incarceration? If you're found to be in  
5 violation of the conditions of that supervised release, you could  
6 be ordered back to the penitentiary for its full length. Do you  
7 understand that?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Okay. Do you understand that I'm not going  
10 to -- or Judge Ellis will sentence you in approximately three  
11 months, and before that we're going to order a presentence report  
12 which will tell him much more than he knows about you today.  
13 That report will also include a sentencing guideline calculation.  
14 Do you understand that?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: And did you go over the sentencing guidelines  
17 as they may apply to your case with Mr. Conte?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that in your agreement the  
20 United States and you have stipulated and recommended that  
21 certain provisions of the sentencing guidelines apply, including  
22 the base offense being a 7, that the loss is at least \$50,000 but  
23 less than \$1.5 million, resulting in a 14-level enhancement of  
24 the guidelines, that you -- that the conduct related to the  
25 conspiracy to commit wire fraud, bank fraud, and fraud related to

1 loan leases, mortgage fraud, bankruptcy fraud, mail theft and  
2 identity theft, and overt acts in furtherance thereof constitute  
3 relevant conduct under Section 1B1.3, and that you should receive  
4 acceptance of responsibility points for your decision to enter  
5 your plea of guilty. Do you understand those are the  
6 recommendations that the parties are making to Judge Ellis?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that Judge Ellis isn't bound  
9 by those recommendations? And the way the guidelines will be  
10 calculated is the probation officer will first look at the  
11 conduct and determine what he or she believes is the proper  
12 guideline range that will be communicated to the government and  
13 your counsel, who will then have an opportunity to agree or  
14 disagree and file a pleading with Judge Ellis telling him that,  
15 and then Judge Ellis will ultimately determine the proper  
16 guideline range to apply to your case and then consider at  
17 sentencing -- he'll do that on your date of sentencing. Do you  
18 understand that?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: Do you understand that you agreed in your plea  
21 agreement in paragraph 5 to waive your right to appeal your  
22 conviction as well as any sentence that is imposed, as long as  
23 it's a lawful sentence?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. And that does not include your

1 right to direct appeal for ineffective assistance of counsel, and  
2 there may be other matters that are appealable, but generally it  
3 acts as a waiver of your right to appeal your conviction and a  
4 lawful sentence. Do you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: All right. Do you understand that in return  
7 for your plea to Count 1, the government will not further  
8 criminally prosecute you in the Eastern District of Virginia for  
9 the specific conduct described in the superseding indictment or  
10 in the Statement of Facts, that this does not confer any immunity  
11 from any state government prosecution? Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Ms. Gesch, are you aware of any other  
14 impending investigations concerning Mr. Foster?

15 MS. GESCH: Your Honor, I believe there is a pending state  
16 case related to the same conduct in Fairfax County. Based on my  
17 discussions with them, I expect that that is likely to be  
18 dismissed following a resolution of this case, but I can't  
19 promise that, but that's my understanding.

20 THE COURT: All right. So you still have a pending state  
21 matter that may go away, but, in any event, you're not afforded  
22 any immunity in your agreement for that state charge. Do you  
23 understand that?

24 (Discussion had off the record between attorney and  
25 client.)

1 THE DEFENDANT: Yes.

2 THE COURT: Okay. And again, in return for your plea to  
3 Count 1, the government will move to dismiss the remaining counts  
4 pending in the indictment at your sentencing hearing. Do you  
5 understand that?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Do you understand that you agreed to make  
8 restitution for the full amount of the victims' losses, and you  
9 agree that Prosperity Home Mortgage is a victim, is entitled to  
10 restitution in an amount not less than \$74,159, and, without  
11 limiting the amount of restitution that the Court must impose,  
12 the parties agree that at a minimum the following victims have  
13 suffered losses identified below and are entitled to restitution.  
14 On page 7 of your plea agreement, do you see the victims and  
15 actual losses which total \$348,808?

16 THE DEFENDANT: Yes.

17 THE COURT: And do you agree that the -- that those  
18 entities are entitled to restitution?

19 THE DEFENDANT: Yes.

20 THE COURT: And you understand that forfeiture and  
21 restitution are separate and distinct financial obligations --

22 THE DEFENDANT: -- Yes --

23 THE COURT: -- upon you? Okay. Do you understand that if  
24 you -- in your agreement you've agreed to forfeit all interest to  
25 any fraud-related asset which you own or exercise control, and in

1 this case the property subject to forfeiture includes, but is not  
2 limited to, a money judgment in the amount of not less than  
3 \$276,065, a sum for which you will be jointly and severally  
4 liable with your spouse? Do you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Do you understand that if the proceeds of the  
7 offense are not available to the United States to be forfeited,  
8 that the Court must enter that forfeiture money judgment, and  
9 that will include a personal money judgment in the amount of  
10 \$276,065?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. And you understand that you've agreed  
13 to waive your constitutional and statutory challenges to the  
14 forfeiture amount?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that, if you attempt to  
17 withdraw your agreement to plead guilty, that you may not be  
18 permitted to, but also, if you do that, the United States will be  
19 released from its obligation under this agreement and that you  
20 may be subject to prosecution for perjury or obstruction of  
21 justice?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. Did you go over the Statement of  
24 Facts carefully?

25 THE DEFENDANT: Yes, I did.

1 THE COURT: All right. And do you agree that if the case  
2 had gone to trial, the government would have proven the facts  
3 identified in this Statement of Facts beyond a reasonable doubt  
4 with admissible and credible evidence?

5 THE DEFENDANT: Yes.

6 THE COURT: All right. So let's go over the Statement of  
7 Facts. You agree that you and your wife resided in the Eastern  
8 District of Virginia during the course of the conspiracy, and  
9 that in or around January of 2017 you incorporated Company B as a  
10 real estate consulting and transactions company with an address  
11 in Germantown, Maryland? Is that correct?

12 THE DEFENDANT: Yes.

13 THE COURT: And that Company B was used by you and Caprice  
14 in furtherance of the fraud scheme?

15 THE DEFENDANT: Yes.

16 THE COURT: And that is it correct that from on or about  
17 August 8th of 2017 to on or about 5th of 2019, Caprice was  
18 employed by Company A, a company that operated a timeshare  
19 program, and that Caprice worked in Company A's offices in  
20 Washington, D.C.? Is that correct?

21 THE DEFENDANT: Yes.

22 THE COURT: And is it correct that between 2018 and July  
23 of 2020 in the Eastern District of Virginia and elsewhere, that  
24 you conspired and agreed with each other to commit wire fraud and  
25 bank fraud as I previously read to you in the Count 1 of the

1 indictment?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. And the purpose of the conspiracy  
4 was so that you and Caprice could obtain money, funds, credit,  
5 leases, and other property by means of materially false and  
6 fraudulent pretenses, representations and promises; is that  
7 correct?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. Is it correct that the manner of  
10 accomplishing your unlawful conspiracy included that you and  
11 Caprice obtained personal identifying information such as social  
12 security cards, numbers, dates of birth, driver's license  
13 numbers, and passport numbers of real people in various ways,  
14 including by stealing mail and by using Company A's customer  
15 personal identifiers and identification documents, which Caprice  
16 obtained through her employment with Company A, and that you two  
17 used the personal identifying information belonging to these  
18 individuals without those individuals' knowledge or  
19 authorization? Is that correct?

20 THE DEFENDANT: Yes.

21 THE COURT: And that you and Caprice then opened accounts  
22 at federally insured financial institutions in the names of real  
23 people who did not know about or authorize such account openings,  
24 and that in order to open and use accounts in the names of other  
25 people, you two used the real identifiers and named applicants,

1 including their names, dates of birth, social security numbers  
2 and driver's license numbers; is that correct?

3 THE DEFENDANT: Yes.

4 THE COURT: And that you both fabricated identification  
5 documents, including drivers' licenses and social security cards  
6 in order to identify identities as named applicants; is that  
7 correct?

8 THE DEFENDANT: Yes.

9 THE COURT: Is it correct that the accounts opened by you  
10 and Caprice were funded through other --

11 THE DEFENDANT: Court's indulgence.

12 THE COURT: Yes.

13 (Discussion had off the record between attorney and  
14 client.)

15 MR. CONTE: Thank you, Your Honor.

16 THE COURT: Is it correct that the accounts that you and  
17 Caprice opened were often funded through other fraudulent  
18 activity, including by initiating fund transfers from other  
19 fraudulent accounts and lines of credit by depositing stolen  
20 credit card convenience checks, stolen personal checks, altered  
21 cashier checks, and personal checks ordered through other  
22 fraudulent accounts established by you two? Is that correct?

23 THE DEFENDANT: Yes.

24 THE COURT: Is it correct that you and Caprice often used  
25 the addresses of vacant properties as mail addresses for the



1 fraudulent accounts and retrieved mail connected to those  
2 fraudulent accounts from the vacant properties' mailboxes?

3 THE DEFENDANT: Yes.

4 THE COURT: Is it correct that you and Caprice applied for  
5 and obtained loans and opened credit cards and lines of credit  
6 using real people's personal identifiers such as names, dates of  
7 birth, social security numbers, and in support of these loans and  
8 credit applications you and Caprice sometimes submitted  
9 fictitious earning statements and other fake documents that had  
10 created -- that you had created purporting to identify their  
11 identity as the named defendant? Is that correct?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. And that at times you and Caprice  
14 listed Company B as an employer in their fabricated documents  
15 allowing you two to falsely verify employment and income  
16 information in an attempt to obtain approval of their loan and  
17 credit applications; is that correct?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Is it correct that you and Caprice  
20 used fraudulently obtained loans, personal lines of credit,  
21 credit cards to make purchases, including the purchase of a  
22 Cadillac Escalade and a Land Range Rover vehicle, to obtain --  
23 and to obtain funds for your personal use? Is that correct?

24 THE DEFENDANT: Uh, yes.

25 THE COURT: Okay. Is it correct that you and Caprice

1 typically overdrew the fraudulent accounts and defaulted on the  
2 debts occurred on those credit cards, loans, and personal lines  
3 of credit?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. And that you also obtained leases  
6 using real people's personal identifiers, and in support of those  
7 lease applications you sometimes submitted fictitious earnings  
8 statements and other fake documents in order to secure those  
9 leases?

10 THE DEFENDANT: Yes.

11 THE COURT: And that after fraudulently obtaining leases  
12 and moving into those leased properties, that you and Caprice  
13 failed to pay rent sometimes incurring tens of thousands of  
14 dollars in rent before leaving or being evicted, correct?

15 THE DEFENDANT: Yeah.

16 THE COURT: Is it correct that you and Caprice also  
17 created e-mail addresses for many of the individuals whose  
18 identities you had stolen and used those e-mail addresses in  
19 furtherance of this scheme? Is that correct?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. And is it correct that you and  
22 Caprice also used several voiceover Internet protocol phone  
23 numbers to communicate with financial institutions and landlords  
24 and realtors in furtherance of this fraudulent scheme?

25 THE DEFENDANT: Yes.

1 THE COURT: Is it correct that in or about June of 2018  
2 Caprice obtained personal identifying information for GM through  
3 her employment with Company A?

4 THE DEFENDANT: Uh, yes.

5 THE COURT: All right. And that in or about August of  
6 2018, you and Caprice obtained a lease in McLean, Virginia within  
7 the Eastern District of Virginia using the personal identifying  
8 information of GM without GM's knowledge or authorization, and in  
9 the lease application materials you and Caprice falsely stated  
10 that GM was employed by Company B and supervised by you, and that  
11 you submitted fraudulent documentation showing proof of income in  
12 order to secure that lease?

13 THE DEFENDANT: Uh, yeah.

14 THE COURT: And is it correct that on or about July 8th,  
15 2018, a credit card application was submitted to USAA in GM's  
16 name using GM's personal identifying information and mailing  
17 address in Vienna Virginia?

18 THE DEFENDANT: Yes.

19 THE COURT: And that based on that application USAA issued  
20 a Visa credit card which, between July 20th of 2018 and August  
21 3rd of 2018 you and Caprice used to spend more than \$9,000 on  
22 that card, which was not repaid?

23 THE DEFENDANT: Yes.

24 THE COURT: And that GM did not apply for or use or  
25 authorize anyone else to use a USAA credit card using GM's

1 personal identifying information?

2 THE DEFENDANT: Yes.

3 THE COURT: Is it correct that on or about October of  
4 2015, WG and LC purchased a home, and Caprice served as their  
5 real estate agent for that purchase, and in doing so Caprice had  
6 access to their personal identifying information which,  
7 thereafter, you and Caprice used without their knowledge or  
8 authorization to open and use fraudulent financial accounts and  
9 WG's name and to apply for and obtain a residential lease in WG's  
10 name?

11 THE DEFENDANT: Yes.

12 THE COURT: Is it correct that in or about November of  
13 2018 Caprice obtained personal identifying information for LG  
14 through her employment with Company A, and that you and Caprice  
15 used LG's personal identifying information without their  
16 knowledge or authorization to open and use fraudulent financial  
17 accounts and apply for credit in LG's name?

18 THE DEFENDANT: Yes.

19 THE COURT: And is it correct that in or about August of  
20 2018 Caprice obtained NN's personal identifying information  
21 through her employment with Company A, and that you and Caprice  
22 used NN's personal identifying information without their  
23 knowledge or authorization to open and use fraudulent financial  
24 accounts and apply for residential leases?

25 THE DEFENDANT: Yes.

1 THE COURT: Again, in April of 2019, is it correct that  
2 Caprice used information that she got through her employment with  
3 Company A to obtain personal identifying information for RD, and  
4 that then you and Caprice used RD's personal identifying  
5 information without their knowledge or authorization to open and  
6 use financial -- fraudulent financial accounts and apply for  
7 loans in RD's name?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. Is it correct that in the summer of  
10 2019 you and Caprice obtained EG's personal identifying  
11 information when EG sought help from you to obtain a line of  
12 credit for EG's business, and that thereafter you used EG's  
13 personal identifying information without his -- without their  
14 knowledge or authorization to open and again used fraudulent  
15 financial accounts in EG's name and to apply for and obtain a  
16 residential lease in EG's name from JT? Is that correct?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Is it correct that in or around  
19 early 2020 while you and Caprice were living at a residence owned  
20 by JT and failing to pay rent to JT, you obtained JT's personal  
21 identifying information and used it without JT's knowledge or  
22 authorization to open financial accounts and attempted to secure  
23 new housing in JT's name?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. And is it correct that on a date

1 no later than February of 2020 you and Caprice obtained personal  
2 identifying information for DDT and DCT and that you used that  
3 information without their knowledge or authorization to open and  
4 use fraudulent financial accounts and apply for credit cards and  
5 loans in their names, including obtaining a loan in the amount of  
6 \$63,786 in DDT's name to purchase a Range Rover? Is that  
7 correct?

8 THE DEFENDANT: Yes.

9 THE COURT: Is it correct that on or about May 25th of  
10 2020 in the Eastern District of Virginia, for purposes of  
11 executing this scheme to defraud, that you executed a scheme and  
12 artifice to defraud the SunTrust Bank account ending in 7121 in  
13 the name of JT; that you provided a check from SunTrust Bank in  
14 the name of JT to a realtor in an attempt to secure a lease and  
15 access to a residential property?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. You agree that, as a result of the  
18 commission of the above described fraudulent scheme, you directly  
19 and proximately caused actual losses to the victims who are  
20 identified in paragraph 29 of the Statement of Facts, which  
21 identifies the different banks totalling \$348,808?

22 THE DEFENDANT: Yes.

23 THE COURT: Is it correct that on or about April 15th of  
24 2020 in the Eastern District of Virginia, that you knowingly  
25 transferred, possessed and used the means of identification of

1 JT's including JT's name and social security number, without  
2 authority and during and in relation to a felony enumerated in  
3 Title 18, Section 1028(a)(C), knowing that the means of  
4 identification belonged to another actual person?

5 THE DEFENDANT: Yes.

6 THE COURT: And that you did each of these acts knowingly  
7 and willfully and not by any accident or mistake?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. How do you then plead, Mr. Foster,  
10 to Count 1, which we've identified as conspiracy to commit wire  
11 fraud and bank fraud with Caprice in violation of Title 18,  
12 Sections 1343 and 44 and 1349, guilty or not guilty?

13 THE DEFENDANT: Guilty.

14 THE COURT: Mr. Conte, have you gone over the facts of the  
15 case with Mr. Foster?

16 MR. CONTE: Yes, Your Honor.

17 THE COURT: And have you gotten discovery from the  
18 government?

19 MR. CONTE: Yes, Your Honor.

20 THE COURT: And do you believe that Mr. Foster's plea is  
21 knowingly and voluntarily made today?

22 THE DEFENDANT: I do, Your Honor.

23 THE COURT: And that there's a basis in fact for it?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right. Thank you. Based on the plea

1 agreement and the Statement of Facts and Mr. Foster's answers to  
2 my questions and those of counsel, I'll find him guilty of Count  
3 1. I'll order a presentence report. I'll continue sentencing  
4 until March 18th at 10 a.m. on Judge Ellis's calendar. Is that  
5 an available date for you, Mr. Conte?

6 MR. CONTE: I believe so, Your Honor.

7 THE COURT: All right. Ms. Gesch, I think that's the date  
8 of the co-defendant's sentencing as well, so we'll set it at  
9 10 a.m. for Judge Ellis.

10 All right. Anything else? As I said, I'm going to order  
11 a presentence report, and the -- Mr. Foster, the presentence  
12 report will be an important document for Judge Ellis. It will  
13 tell him much more than he knows about you today.

14 If you have any questions about what you're being asked to  
15 do or, you know, obtain, anything that you have questions about  
16 that the probation officer is asking of you, you make sure you  
17 speak to Mr. Conte right away, all right, sir?

18 THE DEFENDANT: I will.

19 THE COURT: Okay. All right. All right. Anything else  
20 in this matter, then?

21 MS. GESCH: Nothing from the government.

22 MR. CONTE: Nothing on behalf of Mr. Foster, Your Honor.

23 THE COURT: All right. Mr. Conte, on a separate note, I  
24 understand that you received some additional discovery in the  
25 other case; is that correct? Have you had a chance to get that?



1 MR. CONTE: Yes, Your Honor. I have it right here.

2 THE COURT: Okay.

3 MR. CONTE: I don't think it's going to impact that  
4 November 30th hearing, but I'll let the Court know as soon as  
5 possible if it does.

6 THE COURT: Just so when you have an opportunity to look  
7 at it, please let us know.

8 MR. CONTE: Thank you.

9 THE COURT: All right. All right. Thank you, counsel.  
10 Good day, Mr. Foster. All right. We're in recess.

11 (Proceedings adjourned at 11:43 a.m.)

12 **C E R T I F I C A T E**

13  
14 I, Scott L. Wallace, RDR-CRR, certify that  
15 the foregoing is a correct transcript from the record of  
proceedings in the above-entitled matter.

16 /s/ Scott L. Wallace

4/4/22

17 -----  
18 **Scott L. Wallace, RDR, CRR**  
19 **Official Court Reporter**

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**Date**